

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for House Bill No. 657, Page 1, in the Title, Lines 5-6, by  
2 deleting the words "minimum sentencing for first-time offenders who have been convicted of  
3 certain dangerous felonies" and inserting in lieu thereof the words "judicial proceedings"; and  
4

5 Further amend said bill and page, Section A, Line 4, by inserting immediately after said line the  
6 following:  
7

8 "195.010. The following words and phrases as used in this chapter and chapter 579, unless the  
9 context otherwise requires, mean:

10 (1) "Addict", a person who habitually uses one or more controlled substances to such an  
11 extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs,  
12 or who is so far addicted to the use of such drugs as to have lost the power of self-control with  
13 reference to his or her addiction;

14 (2) "Administer", to apply a controlled substance, whether by injection, inhalation, ingestion,  
15 or any other means, directly to the body of a patient or research subject by:

16 (a) A practitioner (or, in his or her presence, by his or her authorized agent); or

17 (b) The patient or research subject at the direction and in the presence of the practitioner;

18 (3) "Agent", an authorized person who acts on behalf of or at the direction of a manufacturer,  
19 distributor, or dispenser. The term does not include a common or contract carrier, public  
20 warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful  
21 course of the carrier's or warehouseman's business;

22 (4) "Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general  
23 authorized to investigate, commence and prosecute an action under this chapter;

24 (5) "Controlled substance", a drug, substance, or immediate precursor in Schedules I through  
25 V listed in this chapter. The term includes an altered state of a drug or substance listed in Schedules I  
26 through V absorbed into the human body;

27 (6) "Controlled substance analogue", a substance the chemical structure of which is  
28 substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

29 (a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system  
30 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous  
31 system of a controlled substance included in Schedule I or II; or

32 (b) With respect to a particular individual, which that individual represents or intends to have  
33 a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar  
34 to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled  
35 substance included in Schedule I or II. The term does not include a controlled substance; any  
36 substance for which there is an approved new drug application; any substance for which an

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1 exemption is in effect for investigational use, for a particular person, under Section 505 of the  
2 federal Food, Drug and Cosmetic Act (21 U.S.C. Section 355) to the extent conduct with respect to  
3 the substance is pursuant to the exemption; or any substance to the extent not intended for human  
4 consumption before such an exemption takes effect with respect to the substance;

5 (7)"Counterfeit substance", a controlled substance which, or the container or labeling of  
6 which, without authorization, bears the trademark, trade name, or other identifying mark, imprint,  
7 number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the  
8 person who in fact manufactured, distributed, or dispensed the substance;

9 (8)"Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to  
10 another of drug paraphernalia or of a controlled substance, or an imitation controlled substance,  
11 whether or not there is an agency relationship, and includes a sale;

12 (9)"Dentist", a person authorized by law to practice dentistry in this state;

13 (10)"Depressant or stimulant substance":

14 (a)A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or  
15 any derivative of barbituric acid which has been designated by the United States Secretary of Health  
16 and Human Services as habit forming under 21 U.S.C. Section 352(d);

17 (b)A drug containing any quantity of:

18 a. Amphetamine or any of its isomers;

19 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

20 c. Any substance the United States Attorney General, after investigation, has found to be, and  
21 by regulation designated as, habit forming because of its stimulant effect on the central nervous  
22 system;

23 (c) Lysergic acid diethylamide; or

24 (d) Any drug containing any quantity of a substance that the United States Attorney General,  
25 after investigation, has found to have, and by regulation designated as having, a potential for abuse  
26 because of its depressant or stimulant effect on the central nervous system or its hallucinogenic  
27 effect;

28 (11)"Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or  
29 research subject by or pursuant to the lawful order of a practitioner including the prescribing,  
30 administering, packaging, labeling, or compounding necessary to prepare the substance for such  
31 delivery. "Dispenser" means a practitioner who dispenses;

32 (12)"Distribute", to deliver other than by administering or dispensing a controlled substance;

33 (13)"Distributor", a person who distributes;

34 (14)"Drug":

35 (a) Substances recognized as drugs in the official United States Pharmacopoeia, Official  
36 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
37 supplement to any of them;

38 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of  
39 disease in humans or animals;

40 (c) Substances, other than food, intended to affect the structure or any function of the body of  
41 humans or animals; and

42 (d) Substances intended for use as a component of any article specified in this subdivision. It  
43 does not include devices or their components, parts or accessories;

44 (15)"Drug-dependent person", a person who is using a controlled substance and who is in a  
45 state of psychic or physical dependence, or both, arising from the use of such substance on a  
46 continuous basis. Drug dependence is characterized by behavioral and other responses which include  
47 a strong compulsion to take the substance on a continuous basis in order to experience its psychic  
48 effects or to avoid the discomfort caused by its absence;

1 (16)"Drug enforcement agency", the Drug Enforcement Administration in the United States  
2 Department of Justice, or its successor agency;

3 (17)"Drug paraphernalia", all equipment, products, substances and materials of any kind  
4 which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing,  
5 harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing,  
6 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body  
7 a controlled substance or an imitation controlled substance in violation of this chapter or chapter  
8 579.It includes, but is not limited to:

9 (a)Kits used, intended for use, or designed for use in planting, propagating, cultivating,  
10 growing or harvesting of any species of plant which is a controlled substance or from which a  
11 controlled substance can be derived;

12 (b)Kits used, intended for use, or designed for use in manufacturing, compounding,  
13 converting, producing, processing, or preparing controlled substances or imitation controlled  
14 substances;

15 (c)Isomerization devices used, intended for use, or designed for use in increasing the potency  
16 of any species of plant which is a controlled substance or an imitation controlled substance;

17 (d)Testing equipment used, intended for use, or designed for use in identifying, or in  
18 analyzing the strength, effectiveness or purity of controlled substances or imitation controlled  
19 substances;

20 (e)Scales and balances used, intended for use, or designed for use in weighing or measuring  
21 controlled substances or imitation controlled substances;

22 (f)Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and  
23 lactose, used, intended for use, or designed for use in cutting controlled substances or imitation  
24 controlled substances;

25 (g)Separation gins and sifters used, intended for use, or designed for use in removing twigs  
26 and seeds from, or in otherwise cleaning or refining, marijuana;

27 (h)Blenders, bowls, containers, spoons and mixing devices used, intended for use, or  
28 designed for use in compounding controlled substances or imitation controlled substances;

29 (i)Capsules, balloons, envelopes and other containers used, intended for use, or designed for  
30 use in packaging small quantities of controlled substances or imitation controlled substances;

31 (j)Containers and other objects used, intended for use, or designed for use in storing or  
32 concealing controlled substances or imitation controlled substances;

33 (k)Hypodermic syringes, needles and other objects used, intended for use, or designed for use  
34 in parenterally injecting controlled substances or imitation controlled substances into the human  
35 body;

36 (l)Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise  
37 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

38 a.Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens,  
39 permanent screens, hashish heads, or punctured metal bowls;

40 b. Water pipes;

41 c.Carburetion tubes and devices;

42 d.Smoking and carburetion masks;

43 e.Roach clips meaning objects used to hold burning material, such as a marijuana cigarette,  
44 that has become too small or too short to be held in the hand;

45 f.Minature cocaine spoons and cocaine vials;

46 g.Chamber pipes;

47 h.Carburetor pipes;

48 i.Electric pipes;

- 1 j. Air-driven pipes;
- 2 k. Chillums;
- 3 l. Bongs;
- 4 m. Ice pipes or chillers;
- 5 (m) Substances used, intended for use, or designed for use in the manufacture of a controlled
- 6 substance;
- 7 In determining whether an object, product, substance or material is drug paraphernalia, a court or
- 8 other authority should consider, in addition to all other logically relevant factors, the following:
- 9 a. Statements by an owner or by anyone in control of the object concerning its use;
- 10 b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state
- 11 or federal law relating to any controlled substance or imitation controlled substance;
- 12 c. The proximity of the object, in time and space, to a direct violation of this chapter or
- 13 chapter 579;
- 14 d. The proximity of the object to controlled substances or imitation controlled substances;
- 15 e. The existence of any residue of controlled substances or imitation controlled substances on
- 16 the object;
- 17 f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the
- 18 object, to deliver it to persons who he or she knows, or should reasonably know, intend to use the
- 19 object to facilitate a violation of this chapter or chapter 579; the innocence of an owner, or of anyone
- 20 in control of the object, as to direct violation of this chapter or chapter 579 shall not prevent a finding
- 21 that the object is intended for use, or designed for use as drug paraphernalia;
- 22 g. Instructions, oral or written, provided with the object concerning its use;
- 23 h. Descriptive materials accompanying the object which explain or depict its use;
- 24 i. National or local advertising concerning its use;
- 25 j. The manner in which the object is displayed for sale;
- 26 k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or
- 27 related items to the community, such as a licensed distributor or dealer of tobacco products;
- 28 l. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the
- 29 business enterprise;
- 30 m. The existence and scope of legitimate uses for the object in the community;
- 31 n. Expert testimony concerning its use;
- 32 o. The quantity, form or packaging of the product, substance or material in relation to the
- 33 quantity, form or packaging associated with any legitimate use for the product, substance or material;
- 34 (18) "Federal narcotic laws", the laws of the United States relating to controlled substances;
- 35 (19) "Hospital", a place devoted primarily to the maintenance and operation of facilities for
- 36 the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more
- 37 nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical
- 38 conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours
- 39 in any week, medical or nursing care for three or more nonrelated individuals. The term "hospital"
- 40 does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198;
- 41 (20) "Immediate precursor", a substance which:
- 42 (a) The state department of health and senior services has found to be and by rule designates
- 43 as being the principal compound commonly used or produced primarily for use in the manufacture of
- 44 a controlled substance;
- 45 (b) Is an immediate chemical intermediary used or likely to be used in the manufacture of a
- 46 controlled substance; and
- 47 (c) The control of which is necessary to prevent, curtail or limit the manufacture of the
- 48 controlled substance;

(21)"Imitation controlled substance", a substance that is not a controlled substance, which by dosage unit appearance (including color, shape, size and markings), or by representations made, would lead a reasonable person to believe that the substance is a controlled substance. In determining whether the substance is an imitation controlled substance the court or authority concerned should consider, in addition to all other logically relevant factors, the following:

(a) Whether the substance was approved by the federal Food and Drug Administration for over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug Administration approved package, with the federal Food and Drug Administration approved labeling information;

(b) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances;

(d) Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances or fraud;

(e) The proximity of the substances to controlled substances;

(f) Whether the consideration tendered in exchange for the noncontrolled substance substantially exceeds the reasonable value of the substance considering the actual chemical composition of the substance and, where applicable, the price at which over-the-counter substances of like chemical composition sell. An imitation controlled substance does not include a placebo or registered investigational drug either of which was manufactured, distributed, possessed or delivered in the ordinary course of professional practice or research;

(22)"Laboratory", a laboratory approved by the department of health and senior services as proper to be entrusted with the custody of controlled substances but does not include a pharmacist who compounds controlled substances to be sold or dispensed on prescriptions;

(23)"Manufacture", the production, preparation, propagation, compounding or processing of drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include the preparation or compounding of a controlled substance or an imitation controlled substance or the preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

(a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance or an imitation controlled substance in the course of his or her professional practice, or

(b) By a practitioner or his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale;

(24)"Marijuana", all parts of the plant genus *Cannabis* in any species or form thereof, including, but not limited to *Cannabis Sativa* L., *Cannabis Indica*, *Cannabis Americana*, *Cannabis Ruderalis*, and *Cannabis Gigantea*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

(25)"Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

(26)"Narcotic drug", any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or

1 by a combination of extraction and chemical analysis:

2 (a)Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters,  
3 ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters,  
4 ethers, and salts is possible within the specific chemical designation. The term does not include the  
5 isoquinoline alkaloids of opium;

6 (b)Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and  
7 derivatives of ecgonine or their salts have been removed;

8 (c)Cocaine or any salt, isomer, or salt of isomer thereof;

9 (d)Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

10 (e)Any compound, mixture, or preparation containing any quantity of any substance referred  
11 to in paragraphs (a) to (d) of this subdivision;

12 (27)"Official written order", an order written on a form provided for that purpose by the  
13 United States Commissioner of Narcotics, under any laws of the United States making provision  
14 therefor, if such order forms are authorized and required by federal law, and if no such order form is  
15 provided, then on an official form provided for that purpose by the department of health and senior  
16 services;

17 (28)"Opiate", any substance having an addiction-forming or addiction-sustaining liability  
18 similar to morphine or being capable of conversion into a drug having addiction-forming or  
19 addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not  
20 include, unless specifically controlled under section 195.017, the dextrorotatory isomer of  
21 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

22 (29)"Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

23 (30)"Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than  
24 a controlled substance;

25 (31)"Person", an individual, corporation, government or governmental subdivision or agency,  
26 business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial  
27 entity;

28 (32)"Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the  
29 context so requires, the owner of a store or other place of business where controlled substances are  
30 compounded or dispensed by a licensed pharmacist; but nothing in this chapter shall be construed as  
31 conferring on a person who is not registered nor licensed as a pharmacist any authority, right or  
32 privilege that is not granted to him by the pharmacy laws of this state;

33 (33)"Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

34 (34)"Possessed" or "possessing a controlled substance", a person, with the knowledge of the  
35 presence and nature of a substance, has actual or constructive possession of the substance. A person  
36 has actual possession if he has the substance on his or her person or within easy reach and convenient  
37 control. A person who, although not in actual possession, has the power and the intention at a given  
38 time to exercise dominion or control over the substance either directly or through another person or  
39 persons is in constructive possession of it. Possession may also be sole or joint. If one person alone  
40 has possession of a substance possession is sole. If two or more persons share possession of a  
41 substance, possession is joint;

42 (35)"Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific  
43 investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this  
44 state to distribute, dispense, conduct research with respect to or administer or to use in teaching or  
45 chemical analysis, a controlled substance in the course of professional practice or research in this  
46 state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to  
47 distribute, dispense, conduct research with respect to or administer a controlled substance in the  
48 course of professional practice or research;

(36)"Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

(37)"Registry number", the number assigned to each person registered under the federal controlled substances laws;

(38)"Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(39)"State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(40)"Synthetic cannabinoid"[,] includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (II) of subdivision (4) of subsection 2 of section 195.017 and any analogues; homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration;

(41)"Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his or her own use or for the use of a member of his or her household or immediate family, regardless of whether they live in the same household, or for administering to an animal owned by him or by a member of his or her household. For purposes of this section, the phrase "immediate family" means a husband, wife, parent, child, sibling, stepparent, stepchild, stepbrother, stepsister, grandparent, or grandchild;

(42)"Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

195.010. The following words and phrases as used in sections 195.005 to 195.425, unless the context otherwise requires, mean:

(1)"Addict", a person who habitually uses one or more controlled substances to such an extent as to create a tolerance for such drugs, and who does not have a medical need for such drugs, or who is so far addicted to the use of such drugs as to have lost the power of self-control with reference to his addiction;

(2)"Administer", to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(a) A practitioner (or, in his presence, by his authorized agent); or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(3)"Agent", an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. The term does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman while acting in the usual and lawful course of the carrier's or warehouseman's business;

(4)"Attorney for the state", any prosecuting attorney, circuit attorney, or attorney general authorized to investigate, commence and prosecute an action under sections 195.005 to 195.425;

(5)"Controlled substance", a drug, substance, or immediate precursor in Schedules I through V listed in sections 195.005 to 195.425. The term includes an altered state of a drug or substance listed in Schedules I through V absorbed into the human body;

(6)"Controlled substance analogue", a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(a) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system

1 substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous  
2 system of a controlled substance included in Schedule I or II; or

3 (b)With respect to a particular individual, which that individual represents or intends to have  
4 a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar  
5 to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled  
6 substance included in Schedule I or II. The term does not include a controlled substance; any  
7 substance for which there is an approved new drug application; any substance for which an  
8 exemption is in effect for investigational use, for a particular person, under Section 505 of the  
9 federal Food, Drug and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to the  
10 substance is pursuant to the exemption; or any substance to the extent not intended for human  
11 consumption before such an exemption takes effect with respect to the substance;

12 (7)"Counterfeit substance", a controlled substance which, or the container or labeling of  
13 which, without authorization, bears the trademark, trade name, or other identifying mark, imprint,  
14 number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the  
15 person who in fact manufactured, distributed, or dispensed the substance;

16 (8)"Deliver" or "delivery", the actual, constructive, or attempted transfer from one person to  
17 another of drug paraphernalia or of a controlled substance, or an imitation controlled substance,  
18 whether or not there is an agency relationship, and includes a sale;

19 (9)"Dentist", a person authorized by law to practice dentistry in this state;

20 (10)"Depressant or stimulant substance":

21 (a)A drug containing any quantity of barbituric acid or any of the salts of barbituric acid or  
22 any derivative of barbituric acid which has been designated by the United States Secretary of Health  
23 and Human Services as habit forming under 21 U.S.C. 352(d);

24 (b)A drug containing any quantity of:

25 a. Amphetamine or any of its isomers;

26 b. Any salt of amphetamine or any salt of an isomer of amphetamine; or

27 c. Any substance the United States Attorney General, after investigation, has found to be, and  
28 by regulation designated as, habit forming because of its stimulant effect on the central nervous  
29 system;

30 (c) Lysergic acid diethylamide; or

31 (d) Any drug containing any quantity of a substance that the United States Attorney General,  
32 after investigation, has found to have, and by regulation designated as having, a potential for abuse  
33 because of its depressant or stimulant effect on the central nervous system or its hallucinogenic  
34 effect;

35 (11)"Dispense", to deliver a narcotic or controlled dangerous drug to an ultimate user or  
36 research subject by or pursuant to the lawful order of a practitioner including the prescribing,  
37 administering, packaging, labeling, or compounding necessary to prepare the substance for such  
38 delivery. "Dispenser" means a practitioner who dispenses;

39 (12)"Distribute", to deliver other than by administering or dispensing a controlled substance;

40 (13)"Distributor", a person who distributes;

41 (14)"Drug":

42 (a) Substances recognized as drugs in the official United States Pharmacopoeia, Official  
43 Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any  
44 supplement to any of them;

45 (b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of  
46 disease in humans or animals;

47 (c) Substances, other than food, intended to affect the structure or any function of the body of  
48 humans or animals; and



1 (d)Substances intended for use as a component of any article specified in this subdivision.It  
2 does not include devices or their components, parts or accessories;

3 (15)"Drug-dependent person", a person who is using a controlled substance and who is in a  
4 state of psychic or physical dependence, or both, arising from the use of such substance on a  
5 continuous basis.Drug dependence is characterized by behavioral and other responses which include  
6 a strong compulsion to take the substance on a continuous basis in order to experience its psychic  
7 effects or to avoid the discomfort caused by its absence;

8 (16)"Drug enforcement agency", the Drug Enforcement Administration in the United States  
9 Department of Justice, or its successor agency;

10 (17)"Drug paraphernalia", all equipment, products, substances and materials of any kind  
11 which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing,  
12 harvesting, manufacturing, compounding, converting, producing, processing, preparing, storing,  
13 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body  
14 a controlled substance or an imitation controlled substance in violation of sections 195.005 to  
15 195.425.It includes, but is not limited to:

16 (a)Kits used, intended for use, or designed for use in planting, propagating, cultivating,  
17 growing or harvesting of any species of plant which is a controlled substance or from which a  
18 controlled substance can be derived;

19 (b)Kits used, intended for use, or designed for use in manufacturing, compounding,  
20 converting, producing, processing, or preparing controlled substances or imitation controlled  
21 substances;

22 (c)Isomerization devices used, intended for use, or designed for use in increasing the potency  
23 of any species of plant which is a controlled substance or an imitation controlled substance;

24 (d)Testing equipment used, intended for use, or designed for use in identifying, or in  
25 analyzing the strength, effectiveness or purity of controlled substances or imitation controlled  
26 substances;

27 (e)Scales and balances used, intended for use, or designed for use in weighing or measuring  
28 controlled substances or imitation controlled substances;

29 (f)Dilutents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and  
30 lactose, used, intended for use, or designed for use in cutting controlled substances or imitation  
31 controlled substances;

32 (g)Separation gins and sifters used, intended for use, or designed for use in removing twigs  
33 and seeds from, or in otherwise cleaning or refining, marijuana;

34 (h)Blenders, bowls, containers, spoons and mixing devices used, intended for use, or  
35 designed for use in compounding controlled substances or imitation controlled substances;

36 (i)Capsules, balloons, envelopes and other containers used, intended for use, or designed for  
37 use in packaging small quantities of controlled substances or imitation controlled substances;

38 (j)Containers and other objects used, intended for use, or designed for use in storing or  
39 concealing controlled substances or imitation controlled substances;

40 (k)Hypodermic syringes, needles and other objects used, intended for use, or designed for use  
41 in parenterally injecting controlled substances or imitation controlled substances into the human  
42 body;

43 (l)Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise  
44 introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

45 a.Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens,  
46 permanent screens, hashish heads, or punctured metal bowls;

47 b.Water pipes;

48 c.Carburetion tubes and devices;

- 1 d.Smoking and carburetion masks;
- 2 e.Roach clips meaning objects used to hold burning material, such as a marijuana cigarette,
- 3 that has become too small or too short to be held in the hand;
- 4 f.Minature cocaine spoons and cocaine vials;
- 5 g.Chamber pipes;
- 6 h.Carburetor pipes;
- 7 i.Electric pipes;
- 8 j.Air-driven pipes;
- 9 k.Chillums;
- 10 l.Bongs;
- 11 m.Ice pipes or chillers;
- 12 (m)Substances used, intended for use, or designed for use in the manufacture of a controlled
- 13 substance; In determining whether an object, product, substance or material is drug paraphernalia, a
- 14 court or other authority should consider, in addition to all other logically relevant factors, the
- 15 following:
- 16 a.Statements by an owner or by anyone in control of the object concerning its use;
- 17 b.Prior convictions, if any, of an owner, or of anyone in control of the object, under any state
- 18 or federal law relating to any controlled substance or imitation controlled substance;
- 19 c.The proximity of the object, in time and space, to a direct violation of sections 195.005 to
- 20 195.425;
- 21 d.The proximity of the object to controlled substances or imitation controlled substances;
- 22 e.The existence of any residue of controlled substances or imitation controlled substances on
- 23 the object;
- 24 f.Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the
- 25 object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to
- 26 facilitate a violation of sections 195.005 to 195.425; the innocence of an owner, or of anyone in
- 27 control of the object, as to direct violation of sections 195.005 to 195.425 shall not prevent a finding
- 28 that the object is intended for use, or designed for use as drug paraphernalia;
- 29 g.Instructions, oral or written, provided with the object concerning its use;
- 30 h.Descriptive materials accompanying the object which explain or depict its use;
- 31 i.National or local advertising concerning its use;
- 32 j.The manner in which the object is displayed for sale;
- 33 k.Whether the owner, or anyone in control of the object, is a legitimate supplier of like or
- 34 related items to the community, such as a licensed distributor or dealer of tobacco products;
- 35 l.Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the
- 36 business enterprise;
- 37 m.The existence and scope of legitimate uses for the object in the community;
- 38 n.Expert testimony concerning its use;
- 39 o.The quantity, form or packaging of the product, substance or material in relation to the
- 40 quantity, form or packaging associated with any legitimate use for the product, substance or material;
- 41 (18)"Federal narcotic laws", the laws of the United States relating to controlled substances;
- 42 (19)"Hospital", a place devoted primarily to the maintenance and operation of facilities for
- 43 the diagnosis, treatment or care, for not less than twenty-four hours in any week, of three or more
- 44 nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal physical
- 45 conditions; or a place devoted primarily to provide, for not less than twenty-four consecutive hours
- 46 in any week, medical or nursing care for three or more nonrelated individuals.The term "hospital"
- 47 does not include convalescent, nursing, shelter or boarding homes as defined in chapter 198;
- 48 (20)"Immediate precursor", a substance which:

1 (a)The state department of health and senior services has found to be and by rule designates  
2 as being the principal compound commonly used or produced primarily for use in the manufacture of  
3 a controlled substance;

4 (b)Is an immediate chemical intermediary used or likely to be used in the manufacture of a  
5 controlled substance; and

6 (c)The control of which is necessary to prevent, curtail or limit the manufacture of the  
7 controlled substance;

8 (21)"Imitation controlled substance", a substance that is not a controlled substance, which by  
9 dosage unit appearance (including color, shape, size and markings), or by representations made,  
10 would lead a reasonable person to believe that the substance is a controlled substance. In determining  
11 whether the substance is an imitation controlled substance the court or authority concerned should  
12 consider, in addition to all other logically relevant factors, the following:

13 (a)Whether the substance was approved by the federal Food and Drug Administration for  
14 over-the-counter (nonprescription or nonlegend) sales and was sold in the federal Food and Drug  
15 Administration approved package, with the federal Food and Drug Administration approved labeling  
16 information;

17 (b)Statements made by an owner or by anyone else in control of the substance concerning the  
18 nature of the substance, or its use or effect;

19 (c)Whether the substance is packaged in a manner normally used for illicit controlled  
20 substances;

21 (d)Prior convictions, if any, of an owner, or anyone in control of the object, under state or  
22 federal law related to controlled substances or fraud;

23 (e)The proximity of the substances to controlled substances;

24 (f)Whether the consideration tendered in exchange for the noncontrolled substance  
25 substantially exceeds the reasonable value of the substance considering the actual chemical  
26 composition of the substance and, where applicable, the price at which over-the-counter substances  
27 of like chemical composition sell. An imitation controlled substance does not include a placebo or  
28 registered investigational drug either of which was manufactured, distributed, possessed or delivered  
29 in the ordinary course of professional practice or research;

30 (22)"Laboratory", a laboratory approved by the department of health and senior services as  
31 proper to be entrusted with the custody of controlled substances but does not include a pharmacist  
32 who compounds controlled substances to be sold or dispensed on prescriptions;

33 (23)"Manufacture", the production, preparation, propagation, compounding or processing of  
34 drug paraphernalia or of a controlled substance, or an imitation controlled substance, either directly  
35 or by extraction from substances of natural origin, or independently by means of chemical synthesis,  
36 or by a combination of extraction and chemical synthesis, and includes any packaging or  
37 repackaging of the substance or labeling or relabeling of its container. This term does not include the  
38 preparation or compounding of a controlled substance or an imitation controlled substance or the  
39 preparation, compounding, packaging or labeling of a narcotic or dangerous drug:

40 (a)By a practitioner as an incident to his administering or dispensing of a controlled  
41 substance or an imitation controlled substance in the course of his professional practice, or

42 (b)By a practitioner or his authorized agent under his supervision, for the purpose of, or as an  
43 incident to, research, teaching or chemical analysis and not for sale;

44 (24)"Marijuana", all parts of the plant genus Cannabis in any species or form thereof,  
45 including, but not limited to Cannabis Sativa L., Cannabis Indica, Cannabis Americana, Cannabis  
46 Ruderalis, and Cannabis Gigantea, whether growing or not, the seeds thereof, the resin extracted  
47 from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or  
48 preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber

1 produced from the stalks, oil or cake made from the seeds of the plant, any other compound,  
 2 manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted  
 3 therefrom), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination;

4 (25)"Methamphetamine precursor drug", any drug containing ephedrine, pseudoephedrine,  
 5 phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers;

6 (26)"Narcotic drug", any of the following, whether produced directly or indirectly by  
 7 extraction from substances of vegetable origin, or independently by means of chemical synthesis, or  
 8 by a combination of extraction and chemical analysis:

9 (a)Opium, opiate, and any derivative, of opium or opiate, including their isomers, esters,  
 10 ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters,  
 11 ethers, and salts is possible within the specific chemical designation. The term does not include the  
 12 isoquinoline alkaloids of opium;

13 (b)Coca leaves, but not including extracts of coca leaves from which cocaine, ecgonine, and  
 14 derivatives of ecgonine or their salts have been removed;

15 (c)Cocaine or any salt, isomer, or salt of isomer thereof;

16 (d)Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof;

17 (e)Any compound, mixture, or preparation containing any quantity of any substance referred  
 18 to in paragraphs (a) to (d) of this subdivision;

19 (27)"Official written order", an order written on a form provided for that purpose by the  
 20 United States Commissioner of Narcotics, under any laws of the United States making provision  
 21 therefor, if such order forms are authorized and required by federal law, and if no such order form is  
 22 provided, then on an official form provided for that purpose by the department of health and senior  
 23 services;

24 (28)"Opiate", any substance having an addiction-forming or addiction-sustaining liability  
 25 similar to morphine or being capable of conversion into a drug having addiction-forming or  
 26 addiction-sustaining liability. The term includes its racemic and levorotatory forms. It does not  
 27 include, unless specifically controlled under section 195.017, the dextrorotatory isomer of  
 28 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan);

29 (29)"Opium poppy", the plant of the species *Papaver somniferum* L., except its seeds;

30 (30)"Over-the-counter sale", a retail sale licensed pursuant to chapter 144 of a drug other than  
 31 a controlled substance;

32 (31)"Person", an individual, corporation, government or governmental subdivision or agency,  
 33 business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial  
 34 entity;

35 (32)"Pharmacist", a licensed pharmacist as defined by the laws of this state, and where the  
 36 context so requires, the owner of a store or other place of business where controlled substances are  
 37 compounded or dispensed by a licensed pharmacist; but nothing in sections 195.005 to 195.425 shall  
 38 be construed as conferring on a person who is not registered nor licensed as a pharmacist any  
 39 authority, right or privilege that is not granted to him by the pharmacy laws of this state;

40 (33)"Poppy straw", all parts, except the seeds, of the opium poppy, after mowing;

41 (34)"Possessed" or "possessing a controlled substance", a person, with the knowledge of the  
 42 presence and nature of a substance, has actual or constructive possession of the substance. A person  
 43 has actual possession if he has the substance on his person or within easy reach and convenient  
 44 control. A person who, although not in actual possession, has the power and the intention at a given  
 45 time to exercise dominion or control over the substance either directly or through another person or  
 46 persons is in constructive possession of it. Possession may also be sole or joint. If one person alone  
 47 has possession of a substance possession is sole. If two or more persons share possession of a  
 48 substance, possession is joint;

(35)"Practitioner", a physician, dentist, optometrist, podiatrist, veterinarian, scientific investigator, pharmacy, hospital or other person licensed, registered or otherwise permitted by this state to distribute, dispense, conduct research with respect to or administer or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research in this state, or a pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research;

(36)"Production", includes the manufacture, planting, cultivation, growing, or harvesting of drug paraphernalia or of a controlled substance or an imitation controlled substance;

(37)"Registry number", the number assigned to each person registered under the federal controlled substances laws;

(38)"Sale", includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant or employee;

(39)"State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America;

(40)"Synthetic cannabinoid"[.] includes unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of a substance that is a cannabinoid receptor agonist, including but not limited to any substance listed in paragraph (11) of subdivision (4) of subsection 2 of section 195.017 and any analogues, homologues; isomers, whether optical, positional, or geometric; esters; ethers; salts; and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible within the specific chemical designation, however, it shall not include any approved pharmaceutical authorized by the United States Food and Drug Administration;

(41)"Ultimate user", a person who lawfully possesses a controlled substance or an imitation controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household;

(42)"Wholesaler", a person who supplies drug paraphernalia or controlled substances or imitation controlled substances that he himself has not produced or prepared, on official written orders, but not on prescriptions.

217.720.1. At any time during release on parole or conditional release the board [may] shall issue a warrant for the arrest of a released offender for violation of any of the conditions of parole or conditional release. The warrant shall authorize any law enforcement officer to return the offender to the actual custody of the correctional center from which the offender was released, or to any other suitable facility designated by the board. If any parole or probation officer has probable cause to believe that such offender has violated a condition of parole or conditional release, the probation or parole officer [may] shall issue a warrant for the arrest of the offender. The probation or parole officer may effect the arrest or may deputize any officer with the power of arrest to do so by giving the officer a copy of the warrant which shall outline the circumstances of the alleged violation and contain the statement that the offender has, in the judgment of the probation or parole officer, violated conditions of parole or conditional release. The warrant delivered with the offender by the arresting officer to the official in charge of any facility designated by the board to which the offender is brought shall be sufficient legal authority for detaining the offender. After the arrest the parole or probation officer shall present to the detaining authorities a similar statement of the circumstances of violation. Pending hearing as hereinafter provided, upon any charge of violation, the offender shall remain in custody or incarcerated without consideration of bail.

2. If the offender is arrested under the authority granted in subsection 1 of this section, the offender shall have the right to a preliminary hearing on the violation charged unless the offender

1 waives such hearing. Upon such arrest and detention, the parole or probation officer shall  
2 immediately notify the board and shall submit in writing a report showing in what manner the  
3 offender has violated the conditions of his parole or conditional release. The board shall order the  
4 offender discharged from such facility, require as a condition of parole or conditional release the  
5 placement of the offender in a treatment center operated by the department of corrections, or shall  
6 cause the offender to be brought before it for a hearing on the violation charged, under such rules and  
7 regulations as the board may adopt. If the violation is established and found, the board may continue  
8 or revoke the parole or conditional release, or enter such other order as it may see fit. If no violation  
9 is established and found, then the parole or conditional release shall continue. If at any time during  
10 release on parole or conditional release the offender is arrested for a crime which later leads to  
11 conviction, and sentence is then served outside the Missouri department of corrections, the board  
12 shall determine what part, if any, of the time from the date of arrest until completion of the sentence  
13 imposed is counted as time served under the sentence from which the offender was paroled or  
14 conditionally released.

15 3. An offender for whose return a warrant has been issued by the board shall, if it is found that  
16 the warrant cannot be served, be deemed to be a fugitive from justice or to have fled from justice. If it  
17 shall appear that the offender has violated the provisions and conditions of his parole or conditional  
18 release, the board shall determine whether the time from the issuing date of the warrant to the date of  
19 his arrest on the warrant, or continuance on parole or conditional release shall be counted as time  
20 served under the sentence. In all other cases, time served on parole or conditional release shall be  
21 counted as time served under the sentence.

22 4. At any time during parole or probation, the board may issue a warrant for the arrest of any  
23 person from another jurisdiction, the visitation and supervision of whom the board has undertaken  
24 pursuant to the provisions of the interstate compact for the supervision of parolees and probationers  
25 authorized in section 217.810, for violation of any of the conditions of release, or a notice to appear  
26 to answer a charge of violation. The notice shall be served personally upon the person. The warrant  
27 shall authorize any law enforcement officer to return the offender to any suitable detention facility  
28 designated by the board. Any parole or probation officer may arrest such person without a warrant, or  
29 may deputize any other officer with power of arrest to do so by issuing a written statement setting  
30 forth that the defendant has, in the judgment of the parole or probation officer, violated the  
31 conditions of his release. The written statement delivered with the person by the arresting officer to  
32 the official in charge of the detention facility to which the person is brought shall be sufficient legal  
33 authority for detaining him. After making an arrest the parole or probation officer shall present to the  
34 detaining authorities a similar statement of the circumstances of violation.

35 217.722.1. If any probation officer has probable cause to believe that the person on probation  
36 has violated a condition of probation, the probation officer [may] shall issue a warrant for the arrest  
37 of the person on probation. The officer may effect the arrest or may deputize any other officer with  
38 the power of arrest to do so by giving the officer a copy of the warrant which will outline the  
39 circumstances of the alleged violation and contain the statement that the person on probation has, in  
40 the judgment of the probation officer, violated the conditions of probation. The warrant delivered  
41 with the offender by the arresting officer to the official in charge of any jail or other detention  
42 facility shall be sufficient authority for detaining the person on probation pending a preliminary  
43 hearing on the alleged violation. Other provisions of law relating to release on bail of persons charged  
44 with criminal offenses shall be applicable to persons detained on alleged probation violations.

45 2. Any person on probation arrested under the authority granted in subsection 1 of this section  
46 shall have the right to a preliminary hearing on the violation charged as long as the person on  
47 probation remains in custody or unless the offender waives such hearing. The person on probation  
48 shall be notified immediately in writing of the alleged probation violation. If arrested in the

jurisdiction of the sentencing court, and the court which placed the person on probation is immediately available, the preliminary hearing shall be heard by the sentencing court. Otherwise, the person on probation shall be taken before a judge or associate circuit judge in the county of the alleged violation or arrest having original jurisdiction to try criminal offenses or before an impartial member of the staff of the Missouri board of probation and parole, and the preliminary hearing shall be held as soon as possible after the arrest. Such preliminary hearings shall be conducted as provided by rule of court or by rules of the Missouri board of probation and parole. If it appears that there is probable cause to believe that the person on probation has violated a condition of probation, or if the person on probation waives the preliminary hearing, the judge or associate circuit judge, or member of the staff of the Missouri board of probation and parole shall order the person on probation held for further proceedings in the sentencing court. If probable cause is not found, the court shall not be barred from holding a hearing on the question of the alleged violation of a condition of probation nor from ordering the person on probation to be present at such a hearing.

3. Upon such arrest and detention, the probation officer shall immediately notify the sentencing court and shall submit to the court a written report showing in what manner the person on probation has violated the conditions of probation. Thereupon, or upon arrest by warrant, the court shall cause the person on probation to be brought before it without unnecessary delay for a hearing on the violation charged. Revocation hearings shall be conducted as provided by rule of court."; and

Further amend said bill, Page 7, Section 558.019, Line 111, by inserting immediately after said line the following:

"579.010. 1. A person commits the offense of ingesting a controlled substance if he or she intentionally ingests, inhales, or otherwise takes into the body any controlled substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of a practitioner's professional practice.

2. The offense of ingesting a controlled substance is a Class A misdemeanor.

3. The venue for a violation of this section exists in either the jurisdiction in which the controlled substance was ingested, inhaled, or otherwise taken into the body or the jurisdiction in which the controlled substance was detected in the body of the accused."; and

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.